

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JUAN HOSEA JOHNSON,

Defendant-Appellant.

UNPUBLISHED

November 16, 2006

No. 264595

Oakland Circuit Court

LC No. 2004-199506-FC

Before: Fort Hood, P.J., and Murray and Donofrio, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of armed robbery, MCL 750.529, and first-degree home invasion, MCL 750.110a. He was sentenced as a habitual offender, fourth offense, MCL 769.12, to concurrent prison terms of 16 to 50 years for each conviction. He appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the evidence was insufficient to support his convictions because the case rested on the “highly suspect testimony” of the complainants.

When reviewing the sufficiency of the evidence in a criminal case, this Court must view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). Ultimately, the evidence presented a credibility contest between defendant and the complainants. The complainants’ testimony, if believed, was sufficient to establish the elements of the offenses. MCL 750.529; MCL 750.110a. Although defendant asserts that the complainants were not credible, this Court must resolve credibility conflicts in support of the jury’s verdict. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). Thus, defendant’s assertion that the complainants were not credible does not provide a basis for overturning the jury’s verdict.

Defendant also argues that he is entitled to be resentenced because the trial court scored the sentencing guidelines based on facts that were not determined by a jury beyond a reasonable doubt, contrary to *United States v Booker*, 543 US 220; 125 S Ct 738; 160 L Ed 2d 621 (2005), and *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004). In these cases, the United States Supreme Court held that a sentencing court may not increase a defendant’s *maximum* sentence based on facts not found by a jury. As our own Supreme Court has held,

however, those decisions do not affect Michigan's indeterminate sentencing scheme, in which a defendant's maximum sentence is fixed by statute, and the sentencing guidelines affect only the minimum sentence. *People v Drohan*, 475 Mich 140, 159-160; 715 NW2d 778 (2006). Therefore, resentencing is not warranted.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Christopher M. Murray

/s/ Pat M. Donofrio